

IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF CALIFORNIA

KEITH A. SOMERS, No. CIV S-05-0741 MCE EFB P  
Plaintiff,

v. ORDER

BPT COMMISSIONER  
M. PEREZ, et al.,  
Defendant.

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On June 15, 2006, plaintiff filed a document styled as an “emergency motion to compel a court order.” By that motion, plaintiff seeks reconsideration of the district court’s June 1, 2006, order denying his March 8, 2006, motion for preliminary injunction. Plaintiff’s March 8, 2006, motion is based on a motion that he filed on August 1, 2005, also seeking return of his electric typewriter. Pursuant to court order, defendants have filed a response.

In his August 1, 2005, motion, plaintiff contended that he suffers from permanent medical conditions of bilateral radial neuropathy and bilateral, sensory carpal tunnel neuropathy and is therefore unable to communicate in writing except by means of an electric typewriter or computer.

1 He also contends that his personal typewriter was confiscated by prison officials in retaliation for  
2 his filing of prison grievances. In their August 24, 2006, response, defendants present evidence  
3 that plaintiff is not allowed to possess a personal electric typewriter, nor are any other inmates,  
4 but that electric typewriters are available for use in the prison law library. Nothing in plaintiff's  
5 August 1, 2005, motion requires a result different from that reached by the district court in its  
6 June 1, 2006, motion denying plaintiff's motion for preliminary injunction. Moreover, nothing in  
7 the record suggests that plaintiff's constitutional right of access to the courts is being unlawfully  
8 interfered with by prison officials' decision to deny him possession of his own electric  
9 typewriter. Cf. *Lewis v. Casey*, 518 U.S. 343 (1996).

10 Pursuant to E.D. Local Rule 72-303(f), a magistrate judge's orders shall be upheld unless  
11 "clearly erroneous or contrary to law." Upon review of the entire file, the court finds that it does  
12 not appear that the magistrate judge's ruling was clearly erroneous or contrary to law.

13 Accordingly, it is hereby ordered that plaintiff's June 15, 2006, motion be construed as a  
14 request for reconsideration of the district court's June 1, 2006, order denying his March 8, 2006,  
15 motion for preliminary injunction and, as construed, the motion is DENIED..

16 IT IS SO ORDERED.

17 DATED: October 12, 2006

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21 MORRISON C. ENGLAND, JR.  
22 UNITED STATES DISTRICT JUDGE  
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